

HOUSE COMMERCE COMMITTEE AM. #1 to AMENDMENT #1

Amendment No. 1 to Amendment 1 to HB4027

Hargrove
Signature of Sponsor

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AMEND Senate Bill No. 3926

House Bill No. 4027*

by deleting from §46-1-101(b) of SECTION 1 of the bill as amended the language "E felony" and by substituting in its place the language "A misdemeanor".

AND FURTHER AMEND by inserting a new appropriately designated definition under §46-1-102 as follows:

"Interment right" means the right to inter human remains in a particular space in cemetery, including, but not limited to a grave space, mausoleum crypt, niche, memorial bench, and scattering garden.

AND FURTHER AMEND by inserting the following as a new subsection (b)(4) of §46-1-103 and redesignating the other subsections accordingly:

(b)(4) Proof of a map showing all interment sites that will be available for sale and developed or planned for development upon approval of the application.

AND FURTHER AMEND by deleting §46-1-105(c) and by substituting instead the following:

(c) No renewal cemetery registration shall be issued unless the applicant pays, in addition to the renewal fee, a consumer protection fee of twenty dollars (\$20.00) for every preneed sales contract entered into during the preceding renewal period.

AND FURTHER AMEND by adding a new subsection (c) to §46-1-108 and redesignating the following subsection:

(c) If a specific interment site is selected by the purchaser at the time the purchase contract is executed, the contract shall contain a detailed description of the location of the interment site purchased. All such contracts must also contain the following or similar notices to the purchaser: "This cemetery is regulated by the State of Tennessee Department of Commerce and Insurance Burial Services Section. The purchaser or the purchaser's designated legal agent has the right upon request to access the cemetery's records relating to the purchaser's interment right or interment

site. Within ninety (90) days of the receipt of the final payment on the purchase contract for any interment right, the purchaser shall receive from the cemetery company proof of ownership of said interment right. The purchaser, at the purchaser's own cost, may record a copy of such proof of ownership with the register of deeds for the county in which the cemetery is located."

AND FURTHER AMEND by adding the following new subsections immediately after subsection (a) in §46-1-111 of SECTION 1 of the bill as amended and redesignating the subsequent subsection accordingly:

(b) A record shall be kept of every interment site or interment right sold to a consumer. The record required under this section shall contain a detailed description of the location of the interment site or interment right sold.

(c) Any consumer purchasing an interment site or interment right in a cemetery located in this state shall receive from the cemetery company at the time of purchase a copy of the executed purchase contract. If a specific interment site is selected by the consumer at the time the purchase contract is executed, the contract shall contain a detailed description of the location of the interment site purchased.

(d) After the effective date of this act, all cemetery companies applying for and obtaining a new registration in accordance with §46-1-103 shall develop and maintain a map of the cemetery detailing the location of interment sites. For all cemetery companies registered as of the effective date of this act, a map must be developed and maintained for any and all interment sites newly developed or planned for development before they can be made available for sale to consumers.

AND FURTHER AMEND by inserting the following at the end of the last sentence of §46-1-206(b):

; or, the cemetery company has paid its supplier for the merchandise, the supplier has caused the merchandise to be manufactured and stored, and has caused certificate of ownership of the merchandise to be sent to the purchaser, and has agreed to ship the merchandise upon the purchaser's request of the cemetery company,

provided that the cemetery company set aside funds for the installation of said merchandise pursuant to §46-1-207. For the purposes of this part, no person, firm or corporation will be deemed a supplier to a Tennessee cemetery company, unless it:

(1) Permanently and unalterably identifies all merchandise with the name of the contract beneficiary; and

(2) Submits, upon request of the commissioner, a report of all merchandise which has been purchased through a Tennessee cemetery company and has been placed in storage; and

(3) Permits the commissioner or the commissioner's designee, at any time, to examine store merchandise which was purchased through a Tennessee cemetery company and to examine any document pertaining thereto; and

(4) Submits evidence to the cemetery company of a bond insuring the existing and good title of any merchandise due any contract beneficiary purchased through a Tennessee cemetery company; and

(5) Submits evidence to the cemetery company insuring that all merchandise purchased through a Tennessee cemetery company and being stored by the supplier is insured for casualty, theft or other loss

AND FURTHER AMEND by adding the following new subdivision in §46-1-306(a) of SECTION 1 of the bill as amended:

() Selling an interment site or interment right that the cemetery or cemetery operator knew or should have known had been purchased previously by another consumer. This subdivision shall not be construed to prohibit a cemetery company or cemetery operator from selling an interment site that has been determined to have escheated to the cemetery company pursuant to §§46-2-103 through 46-2-105. This subdivision shall not be construed to prohibit a consumer who has purchased an interment site from selling or disposing of the interment site in the discretion of that consumer, if such disposition is otherwise in accordance with applicable law.

AND FURTHER AMEND by deleting the following language from §46-1-204(b)(3)(A) of

SECTION 1 of the amended bill:

(i) For land, including but not limited to lawn crypts, fifty center (50¢) per square foot of the land sold or twenty percent (20%) of total sales price, whichever is greater; and by substituting instead the following language:

(i) For land, but not including lawn crypts, fifty cents (50¢) per square foot of the land sold or twenty percent (20%) of total sales price, whichever is greater;

AND FURTHER AMEND by deleting the last sentence of §46-2-101(b)(3) in its entirety and replacing it with the following:

The cemetery owner shall only be allowed to charge an administrative or documentation fee to any noncemetery personnel seeking to install a commodity or to have a commodity installed by the cemetery company, provided however said fee is the same amount charged to all cemetery customers, including those customers who purchase the commodity from the cemetery company charging the fee and such fee shall not exceed one hundred dollars (\$100) per agreement. The cemetery owners shall not charge any other fees related to any noncemetery personnel seeking to install a commodity other than the administrative or documentation fee, installation and memorial care.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Interested persons, as that term is defined in §46-4-102, may enter into an agreement with the owners of real property that is not designated as a cemetery but does have human remains with marked and identifiable graves to conduct improvement care, as that term is defined in §46-1-102, to the graves located on such real property. The provisions of this section shall not be construed to require real property owners to provide the improvement care.